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EXAMINER	
DIVECHA, KAMAL B	

ART UNIT	PAPER NUMBER
2151	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/002,645	TEWARI, JAYANTA	
	Examiner	Art Unit	
	KAMAL B. DIVECHA	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 May 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10,12-16,18,20 and 21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10,12-16,18,20 and 21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12/27/06* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Arguments

Claims 1-10, 12-16, 18, 20 and 21 are pending in this application.

Applicant's arguments filed May 23, 2006 have been fully considered but they are not persuasive.

In response filed, applicant argues in substance that:

a. Amendments to the application which are supported in the original description are not new matter. Furthermore, mere rephrasing of a passage does not constitute new matter (remarks, page 2).

In response to argument [a] above, examiner respectfully disagree for the at least following reasons:

First, applicant intends to read the original claims instead of indicating the exemplary locations in the originally filed specification for providing the support of the subject matter set forth in the new matter objection (see remarks, page 3-4).

Furthermore, applicant points to the specification to find the support for recited limitation "classify a functionality of the at least one network device via the one network communication port based upon network transmissions characteristics of the at least one network device and the determined software application", however the cited passage of specification simply states "additionally, advanced manager may also classify or identify the functionality of a network device based upon the network transmission characteristics of the network device (page 10, lines 27-30)."

Applicant specification as originally filed clearly fails to provide any support for the subject matter "classify a functionality of the at least one network device via the one network

communication port based upon network transmissions characteristics of the at least one network device and the determined software application."

There is simply no description whatsoever in the originally filed specification describing nor suggesting "classifying a functionality of the at least one network device via the one network communication port based upon the determined software application".

Applicant amendment to the specification (response filed 12/27/2005) to include the process as described in figure 5 step #506 is simply not described in the original specification. As such the subject matter as disclosed by figure 5 filed on 12/27/2005 does introduce new matter and it changes the scope of the claims.

Applicant attempts to overcome the 35 USC 112, first paragraph rejection by mapping the original claims to the newly added drawings filed 12/27/2005. Where in specification are this process steps described. Therefore the claimed limitations presents subject matter situations and was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s), at the time the invention was filed, had possession of the claimed invention.

b. Babu does not disclose or suggest querying a network device to determine a software application running on the device (remarks, page 10-11).

In response to argument [b] above, Examiner disagrees in light of the following:

At column 7 lines 65 to column 8 line 6, Babu teaches the process of querying the network device for basic device data that represents basic information about the device.

At column 13 lines 5 to column 14 line 10, Babu teaches "the values received in the detailed device data are then stored in tables of the database...In this way, the collection engine

gathers information from many different network devices, each of which has different physical, hardware, software, and firmware characteristics".

At column 13 line 30 to column 14 line 10, Babu discloses change detection mechanism that detects, records, and reports on changes in the device information...the attributes value also can store information describing the nature of a change, such as a circuit card change, software reload, software update, etc.

Based on the above teachings, one of ordinary skilled in the relevant art would have discerned that the detailed device information collected during the query includes the information about the software and/or software application because without determining the current software running the network device, the process of detecting and determining the software update would not have been possible.

c. Babu does not disclose or suggest "classify a functionality of the at least one network device...based upon network transmission characteristics of the at least one network device and the determined software application (remarks, page 11).

In response to argument [c], examiner disagrees at least for the following reasons:

First, the applicant has failed to show or prove that the specification does disclose the process of classify a functionality of the at least one network device...based upon network the determined software application.

Secondly, Mauger, from the same field of endeavor discloses an advanced manager having a plurality of ports for coupling to a plurality of devices of the same or different types (see fig. 16) and being able to determine the type of the first device and the type of traffic to be communicated to the second device by inspecting signals received from the first device via the

server (i.e. classifying which may include determining type of traffic transmitted by the network element based upon the transmission characteristics of the network element, as defined by applicant' specification page 11, and as taught by Mauger, col. 31 L1 1-24).

Mauger's communication apparatus is further able to identify traffic from each device type and manage the network device based upon the determined functionality (col. 31 L1 1-57).

d. Babu does not disclose or suggest that determined software and network transmission characteristics are involved in this mapping operation (remarks, page 12).

In response to argument [d], examiner disagrees for the at least following reasons:

First, the recited claims fails to disclose such a limitation.

Secondly, there is simply no teaching in the specification of such a limitation (see also 35 USC 112, first paragraph rejection).

DETAILED ACTION

The amendment filed on December 27, 2005, is objected to under 35 U. S. C. § 132(a) because it introduces new matter into the specification. 35 U. S. C. § 132(a) states that no amendment shall introduce new matter into the disclosure of the invention.

The added material, which is not supported by the original disclosure, is as follows:

In the amendment to the specification and drawings: "Figure 5 shows a method for managing network devices. At step 502, an advanced manager is provided that is capable of performing steps 504-512. At step 504, network devices are queried to determine at least one software application running on the at least one network device. **The functionality of at least one network device is classified based upon network transmissions characteristics and the determined software application**. In step 508, **inter-device transmission data, inter-device negotiation data, bandwidth negotiation data, and a bandwidth negotiation recommendation data are received**. In step 510, a policy database is consulted and received data is compared to the policies in the database. **In step 512, the at least one network device is managed according to the determined functionality**. Managing may include submitting management instructions and a bandwidth recommendation based on a policy database", introduces new matter into the specification.

The added material (fig. 5 and its description) stating, "**the functionality of at least one network device is classified based upon network transmissions characteristics and the determined software application**. In step 508, **inter-device transmission data, inter-device negotiation data, bandwidth negotiation data, and a bandwidth negotiation recommendation data are received...**" is not supported by the original specification.

Applicant is required to **cancel the new matter** in the response to this office action.

Drawings

The drawings filed on December 27, 2005 have been objected because they present new matter.

Specification

The specification is objected to under 35 U. S. C. § 112, first paragraph, as failing to adequately teach how to make and use the invention, i.e. failing to provide an enabling disclosure.

The test to be applied under the written description portion of 35 U. S. C. § 112, first paragraph, is whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of later claimed subject matter. Vas-Cat, Inc. v. Mahurkar, 935 F. 2d 1555, 1565, 19 USPQ2d 111, 1118 (Fed. Cir. 1991), reh'rg denied (Fed. Cir. July 8, 1991) and reh'rg, en banc, denied (Fed. Cir. July 29, 1991).

The applicants have failed to provide an enabling disclosure in the detailed description of the embodiment. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to support the subject matter set forth in these claims (claims 1-21).

The recited claims includes "classify a functionality of the at least one network device via the one network communication port based upon network transmission characteristics of the at least one network device and the determined software application", "managing the at least one network device based upon the classified functionality (claim 1)", "receive inter-device transmission data and inter-device negotiation data from at least one network device and to compare the received inter-device transmission data and the inter-device negotiation data with

the policy database (claim 5)", "receive bandwidth negotiation data and a bandwidth negotiation recommendation from at least one network device" and "compare the bandwidth negotiation data and bandwidth negotiation recommendation with the policy database (claim 7 and claim 15)".

However, the specification merely describes "a system wherein advanced manager may also query network devices for identification information. Additionally, advanced manager may also classify or identify the functionality of a network device based upon the network transmission characteristics of the network device. This classification may include determining that a network device primarily transmits particular types of transmissions such as an audio stream, video stream, or simple data stream. Advanced manager may then manage these different types of devices according to their transmission characteristics. Advanced manager may also query associate network devices to determine the software applications running on the associated network device" (specification page 10 line 26 to page 11 line 9).

Secondly, the specification merely describes the bandwidth negotiation in a network. End point device sends bandwidth request to gatekeeper. Gatekeeper may determine that the bandwidth request should be granted or rejected according to policy. If gatekeeper determines to reject bandwidth request, the bandwidth request is submitted to advanced manager for further consideration. Advanced manager may then direct gatekeeper to accept or reject bandwidth request by submitting bandwidth response (specification, page 12 lines 3-25). The specification further describes the process of comparing bandwidth request received to policy database (specification page 13 lines 27-30).

The specification fails to describe the advanced manager operable to "classify a functionality of the at least one network device via the one network communication port based

upon network transmission characteristics of the at least one network device and the determined software application", "managing the at least one network device based upon the classified functionality (claim 1)", "receive inter-device transmission data and inter-device negotiation data from at least one network device and to compare the received inter-device transmission data and the inter-device negotiation data with the policy database (claim 5)", "receive bandwidth negotiation data and a bandwidth negotiation recommendation from at least one network device" and "compare the bandwidth negotiation data and bandwidth negotiation recommendation with the policy database (claim 7 and claim 15)", hence, the above claimed limitation was not described in he specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1-21 are rejected under 35 U. S. C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 4, 8-10, 12-14, 18 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babu et al. (hereinafter Babu, U. S. Patent No. 6,122,639) in view of Mauger et al. (hereinafter Mauger, U. S. Patent No. 6,937,612 B1).

As per claim 1, Babu explicitly discloses a system for communicating information (fig. 3) comprising: a plurality of network devices, each including at least one network communication port, each network device connected with at least one other network device through the at least one network communication port (fig. 1 item #118a-c, 102, 104, fig. 5); an advanced manager operably coupled to the communication port of at least one network device (fig. 1 item #102 and item #118a and col. 5 L62 to col. 6 L36), the advanced manager operable to: query at least one of the plurality of network devices to determine at least one software application running on the least one of the plurality of network devices (col. 7 L6 to col. 8 L6, col. 12 L45-67 and col. 13 L14-20, col. 19 L16-45, col. 3 L55-67); classify the network devices through network communication port (col. 8 L7 to col. 9 L25); and manage the at least one network device based upon the classified functionality (col. 8 L7-67, col. 6 L34-67), however, Babu does not disclose the process of classify a functionality of at least one network device via the one network communication port **based upon network transmission characteristics of the at least one network device.**

Mauger, from the same field of endeavor discloses an advanced manager having a plurality of ports for coupling to a plurality of devices of the same or different types (see fig. 16) and being able to determine the type of the first device and the type of traffic to be communicated to the second device by inspecting signals received from the first device via the server (i.e. classifying which may include determining type of traffic transmitted by the network element based upon the transmission characteristics of the network element, as defined by applicant's specification page 11, and as taught by Mauger, col. 31 L11-24). Mauger's communication apparatus is further able to identify traffic from each device type and manage the network device based upon the determined functionality (col. 31 L11-57).

Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Babu in view of Mauger, in order to classify a functionality of one network device via the communication port based upon the network transmission characteristics of the one network device and manage the one network device based upon the determined functionality.

One of ordinary skilled in the art would have been motivated because it would have increased the efficiency of communications between the first and second devices (see Mauger, col. 31 L45-57).

As per claim 4, Babu does not disclose the system comprising the plurality of devices interconnected within a network operable to facilitate video conferencing. Mauger, from the same field of endeavor, discloses the system and process of facilitating video conferencing (fig. 1, fig. 2-3, fig. 4, fig. 7 and col. 3 L6-45). Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Babu in view of Mauger,

in order to implement a system to facilitate video conferencing. One of ordinary skilled in the art would have been motivated because it would have enabled video communications between two or more multimedia terminals (Babu, col. 3 L32-45).

As per claim 8, Babu does not disclose the process wherein the advanced manager is operable to determine a network device to be a Multipoint Control Unit device. Mauger discloses the process of determining the type of device and also discloses a multi-point control unit (namely a conference bridge, col. 18 L4-35, col. 31 L11-24 i.e. Mauger's system teaches both the process of determining the type of device and discloses a multi-point control unit device i.e if the device is a multi-point control unit device then obviously advanced manager would determine a network device to be a multi-point control unit device and therefore Mauger's advanced manager is operable to determine a network device to be a Multi-point Control Unit device). Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Babu in view of Mauger in order to configure advanced manager which would be operable to determine a network device to be a Multipoint Control Unit Device. One of ordinary skilled in the art would have been motivated because Multipoint Control Unit Device is a well known device that functions to provide access to different networks having different signaling protocols via channels that support audio, video and/or data (Mauger, col. 18 L22-32).

As per claim 9, Babu does not disclose the process wherein the advanced manager is operable to determine a network device to be a Gatekeeper device. Mauger discloses the process of determining the type of device and also discloses a gatekeeper device (col. 31 L11-24, fig. 4 item #36, fig. 16 and col. 17 L36 to col. 18 L32: same reasoning applies here as set forth above

in claim 8). Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Babu in view Mauger in order to provide an advanced manager operable to determine a network device to be a gatekeeper device, since Mauger teaches both the process of determining the type of device and discloses Gatekeeper devices in his system. One of ordinary skilled in the art would have been motivated because Gatekeeper device functions to translate LAN addresses into appropriate network addresses, and to negotiate and control bandwidth requirements for a proposed H.323 communication (Mauger, col. 18 L4-8, col. 10 L22-26).

As per claim 10, Babu does not disclose the process wherein the advanced manager is operable to determine a network device to be an End Point device. Mauger discloses the process of determining the type of device and also discloses an End point device (col. 31 L11-24 and fig. 16 item #110). Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Babu in view of Mauger in order to provide an advanced manager operable to determine a network device to be an End point device, since Mauger teaches the process of determining the type of network and discloses an End point device. One of ordinary skilled in the art would have been motivated so that the multimedia services such as audio, video and data streams would have been provided to the end point devices.

As per claim 12, Babu discloses the system wherein the advanced manager is operable to receive selected inter-device communications (fig. 3 item #310 and fig. 4A item #412).

As per claim 14, Babu discloses the advanced manager further comprising: a device identification module operable to determine the functionality of a connected network device (fig.

3 item #310, fig. 4B item #450, 452 and col. 4 L19-21 and col. 8 L42-67); a management engine operable to receive device identification and network management information (col. 7 L6 to col. 8 L6); a policy database containing a plurality of management policies decisions (col. 6 L41-67); and wherein management engine is operable to submit network management instructions to an associated network device (col. 7 L6-65).

As per claims 2, 13, 18 and 21, they do not teach or further define over the limitations in claim 1, 4, 8-10, 12 and 14. Therefore, claims 2, 13, 18 and 21 are rejected for the same reasons as set forth in claims 1, 4, 8-10, 12 and 14.

As per claim 20, Babu discloses the process of receiving network management data; consulting an associated policy database and submitting management instructions based on the associated policy database (col. 15 L35-67 and col. 7 L6-65).

3. Claims 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babu et al. (hereinafter Babu, U. S. Patent No. 6,122,639) in view of Mauger et al. (hereinafter Mauger, U. S. Patent No. 6,937,612 B1), and further in view of Koo (U. S. Pub. No. 2001/0032270 A1).

As per claim 3, Babu in view of Mauger's teaching as above still applies; however, Babu in view of Mauger does not explicitly disclose the network communication port being of type 1718 type port. Koo explicitly teaches using the network communication port of type 1718 (pg. 1 table 1). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Koo as stated above with the system of Babu in view of Mauger in order to use the UDP discovery port of type 1718. One of ordinary skilled in the art would have been motivated because it would have enabled the registration, authentication and RAS (registration admission status) management by transmitting

request/response messages through the network communication port of type 1718 associated with the network device (Koo, pg. 1 para. 0006, 0011).

As per claim 16, it does not teach or further define over the limitations in claims 3. Therefore, claim 16 is rejected for the same reasons as set forth in claim 3.

4. Claims 5-7 and 15 are rejected under 35 U.S.C. 103(a) as being obvious over Babu et al. (hereinafter Babu, U. S. Patent No. 6,122,639) in view of Mauger et al. (hereinafter Mauger, U. S. Patent No. 6,937,612 B1), further in view of Buhrke et al. (U. S. Patent No. 5,231,631).

As per claim 7, Babu in view of Mauger does not disclose the process of receiving bandwidth negotiation data and a bandwidth negotiation recommendation (read as receiving bandwidth request with requested bandwidth) from at least one network device; comparing the bandwidth negotiation data and bandwidth negotiation recommendation with the policy database; and submit a revised bandwidth recommendation based on the policy database.

Buhrke discloses the process of receiving a bandwidth request from a network device (fig. 8 item #802); comparing the bandwidth requested and available bandwidth (col. 4 L32-42 and col. 6 L47-53); and submit a revised bandwidth recommendation based on the policy database (fig. 8 step #808, 810, 816). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Buhrke as stated above with Babu in view of Mauger and further in view of Buhrke, in order to negotiate and allocate the available bandwidth.

One of ordinary skilled in the art would have been motivated because it would have controlled requirements for a proposed communication and would have further provided efficient communications system (Mauger, col. 18 L4-8).

As per claim 6, Babu discloses the system wherein the database is operable to be selectively updated (col. 15 L20-60, col. 6 L53-67).

As per claims 5 and 15, they do not teach or further define over the limitations in claim 6-7. Therefore, claims 5 and 15 are rejected for the same reasons as set forth in claims 6-7.

Additional References

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Marshall, U. S. Patent No. 5,600,797: System for identifying new client and allocating bandwidth thereto by monitoring transmission of message received periodically from client computers informing of their current status.

b. Shaffer et al., U. S. Patent No. 6,249,814 B1: Method and Apparatus for identifying devices on a network.

c. McCormack et al., U. S. Patent No. 6,360,255 B1: Automatically integrating an external network with a network management system.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Increased Flex Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kamal Divecha
Art Unit 2151
June 20, 2006.

Khanh Dinh
Primary Examiner